

## Ethics, costs & conduct

A Sydney family court case which resulted in a settlement of \$579,499 and legal fees in excess of \$500,000 has caused a judge to refer the matter to the Commonwealth and state Attorneys-General and the Law Society of New South Wales.

The case has also resulted in the professional conduct of two solicitors being called into question.

Mr Justice Moss of the Family Court said his was a question "to assess whether...one or both solicitors have been guilty of professional misconduct.

"I am bound to take that course."

The divorce case ran for two years and involved interpersonal relationships between the divorcing couple and the solicitors.

One solicitor had been the husband's solicitor in the conduct of his business affairs but later became a friend of the wife.

The second solicitor had acted for the first in his divorce.

The matter of costs was in dispute because the wife claimed she had not agreed to pay above the scale fee.

The original copy of what was claimed to be a costs agreement could not be found for production during the proceedings.

A photocopy was presented in court which the wife claimed was a fake.

Justice Moss said the law relating to costs agreements in family law was unsatisfactory.

The case was reported by Valerie Lawson in the *Sydney Morning Herald* (date unknown).

### ADMISSIONS

**Originating motions served on the Law Society still say the applicant will apply for admission on the BLANK day of BLANK.**

**The Society cannot be present on BLANK days...**

# Law Week coup

The former Queensland Special Prosecutor, Justice Doug Drummond, will be the Society's guest for Law Week this year.

Justice Drummond will address luncheons in Darwin and Alice Springs on commissions of inquiry, media coverage and subsequent trials.

In 1988 Justice Drummond was senior counsel assisting the Fitzgerald Inquiry and in 1989 was appointed Special Prosecutor with responsibility for prosecuting criminal offences arising out of the Fitzgerald Inquiry. In December last year he was appointed to the bench of the Federal Court.

Whilst in Darwin Justice Drummond will address secondary school students and senior criminal law students at the University.

The Darwin luncheon will be on

Tuesday 5 May and the Alice Springs luncheon on Friday 8 May.

Other Law Week activities planned for this year include *Lawline*, a 008 phone number for free legal advice which will be available throughout the Territory, and a series of *Lawtalks*, community service mini-lectures broadcast on ABC regional radio.

A range of brochures is being prepared on issues which most affect members of the public -- exceed .08, parental liability legislation, drug legislation, tenancy disputes, family law and a brochure on the services provided by the Darwin Community Legal Service.

Volunteers are needed to staff free legal advice booths in Darwin, Katherine and Alice Springs and to render assistance on the *Lawline* during Law Week. Volunteers should contact Robyn at the Society.

## More GST confusion

The Shadow Treasurer, Peter Reith, said the Minister for Justice, Michael Tate, is wrong on how a GST will affect legal aid.

Mr Reith said that any GST paid by legal aid commissions would be fully rebateable in the form of an "input tax credit."

The President of the Law Society, John Stirk, welcomed the news with caution but said Mr Reith's announcement raised more questions than it answered.

"For instance, will any rebate be extended to work briefed out by Legal Aid?"

"If it isn't, the cost of legal aid will rise and the commissions will be able to service fewer clients.

"If it is, it would appear that the rebate will be made available at the end of the tax year leaving the commissions short for the rest of the year," he said. Mr Stirk said he had written to Senator Tambling asking him to further

clarify the issues with Mr Reith and the Leader of the Opposition, John Hewson.

He said his first letter to Senator Tambling pointed out that initiatives such as legal aid contingency funds set up by law societies would serve only to fill the void in funding created by the imposition of a GST on legal aid services.

He said solicitors were often the convenient whipping boy in cost of justice issues and the denial of a GST exemption for legal aid would render solicitors' initiatives a "frustrating exercise in futility."

He said the issue of the Coalition's proposed \$10 million funding cut to the legal aid budget remained a concern.

Mr Reith reiterated the Coalition's position that the cut would not affect the provision of services and would be saved through efficiency improvements in the legal aid commissions.